

JAMES C. PREBELICH

IBLA 80-436

Decided February 26, 1981

Appeal from a decision of the California State Office, Bureau of Land Management, declaring the Mary Margeret Mine placer mining claim abandoned and void. CA MC 1492.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim

Where the owner of an unpatented mining claim located on or before Oct. 21, 1976, fails to file evidence of assessment work or notice of intention to hold the claim on or before Dec. 30, 1979, having filed such evidence with BLM during calendar year 1978, the claim is properly deemed to be abandoned and void under 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: James C. Prebelich, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

A second amended notice of location for the Mary Margeret Mine placer mining claim was filed with the Bureau of Land Management (BLM) on April 1, 1977. 1/ On December 1, 1978, proof of annual assessment work was filed with BLM. On February 21, 1980, BLM declared the mining claim abandoned and void stating "[e]vidence of assessment work notice for the period of September 1, 1978 to September 1, 1979, was due in this office on or before December 31, 1978 [sic]." 2/

[1] In accordance with section 314(c) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(c) (1976), 43 CFR 3833.2-1(a) provides:

The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, which ever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

Failure to file the necessary information within the time period prescribed conclusively constitutes abandonment of the claim or claims. 43 CFR 3833.4. Appellant does not deny that he failed to submit the required information, but asserts that he was not aware of the filing requirements.

[2] All persons dealing with the government are presumed to have knowledge of duly promulgated statutes and regulations. Federal Crop Insurance v. Merrill, 332 U.S. 380 (1947); Canyon View Mining Co., 49 IBLA 184 (1980); 44 U.S.C. §§ 1507, 1510 (1976). BLM properly declared the claim abandoned and void.

---

1/ The claim originally named the Brown Jug Placer Mining Claim was located prior to an amended location of August 10, 1973.

2/ Evidence of assessment work for that period was due on or before December 30, 1979. See 43 CFR 3833.2-1(a). In any event no proof of assessment of work or notice of intention to hold was filed during calendar year 1979.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris  
Administrative Judge

We concur:

Bernard V. Parrette  
Chief Administrative Judge

James L. Burski  
Administrative Judge

